

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

MESA UNDERWRITERS SPECIALTY §  
INSURANCE COMPANY, §  
§  
Plaintiff, §  
§  
v. § CIVIL ACTION NO. 4:23-cv-00450  
§  
MODA INVESTMENT, LTD, d/b/a §  
WESTERN INN MOTEL, and §  
GARDEN HOTELS, INC., §  
§  
Defendants. §

**NOTICE OF DISMISSAL (WITHOUT PREJUDICE)**  
**PURSUANT TO RULE 41**

Plaintiff Mesa Underwriters Specialty Insurance Company (“MUSIC”) files this Notice of Dismissal (Without Prejudice) Pursuant to Federal Rule of Civil Procedure Rule 41 and respectfully states:

1. Plaintiff commenced this action on February 7, 2023 by filing its Complaint for Declaratory Judgment [ECF No. 1], which sought a declaratory judgment that MUSIC is not obligated under the terms of an insurance policy to defend or indemnify Defendants Moda Investment, LTD d/b/a Western Inn Motel and Garden Hotels, Inc. (collectively, “Moda Entities”) against the claims asserted against them in an underlying civil action then pending in the 164th Judicial District Court of Harris County, Texas (“Underlying Lawsuit”).

2. The Moda Entities have not entered an appearance in this action, filed an answer, or otherwise responded to MUSIC’s Complaint for Declaratory Judgment.

3. Because MUSIC has been advised that all claims asserted against the Moda Entities in the Underlying Lawsuit have been nonsuited (without prejudice), pursuant to Federal Rule of

Civil Procedure Rule 41(a)(1)(A)(i), MUSIC hereby gives notice of dismissal (without prejudice) of all claims asserted by MUSIC against the Moda Entities in this action, which shall be effective upon filing to dismiss this case without a court order.

Respectfully submitted,

By: /s/ James W. Holbrook, III

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